

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

AGENCY ONE INSURANCE, INC. and  
PAMELA A. SIROKY,

Plaintiffs,

v.

WESTPORT INSURANCE CORP.,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

CASE NO.: 8:13-cv-78

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Westport Insurance Corp. ("Westport") hereby removes this action from the District Court of Lancaster County, Nebraska, where it is currently pending, to the United States District Court for the District of Nebraska. The Court has jurisdiction over this action, and it is properly removable to this Court because the parties are completely diverse and the amount in controversy exceeds \$75,000.00.

In support of this removal, Westport states as follows:

1. Plaintiffs commenced this action on or about February 5, 2013, by filing a Complaint against Westport in the District Court of Lancaster County, Nebraska, bearing Case No. 13-436.

2. Plaintiffs allege that Westport improperly refuses to defend and indemnify plaintiffs for claims made against them in a Complaint filed on May 17, 2012 in the United States District for the Northern District of Iowa, Western Division styled *Metropolitan Property & Casualty Insurance Company v. Agency One Insurance, Inc. and Pamela A. Siroky* and found at Civil No. 12-cv-4050-MWB (the "Iowa Federal Lawsuit").

3. As set forth more fully below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because the Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, and Westport has satisfied the procedural requirements for removal.

### **GROUND FOR REMOVAL**

4. This action may be removed under 28 U.S.C. § 1441(a) because this Court has original jurisdiction under 28 U.S.C. § 1332(a)(1). There is complete diversity of citizenship, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In addition, no defendant is a citizen of the State of Nebraska.

#### **A. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN THE PARTIES.**

5. A copy of all processes, pleadings and orders served upon Westport in this matter are attached hereto as Exhibit A.

6. Plaintiffs are citizens of the State of Nebraska. (Ex. A, Compl. paragraphs 1 & 2).

7. Westport is, and was at the time plaintiff commenced this action, a corporation organized under the laws of the State of Missouri with its principal place of business in the State of Kansas, and therefore, a citizen of the States of Missouri and Kansas for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

8. Thus, there is complete diversity among the parties.

#### **B. THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED.**

9. The Complaint (without exhibits) filed in the Iowa Federal Lawsuit is attached hereto as Exhibit B, and the Answer filed in the Iowa Federal Lawsuit is attached hereto as Exhibit C.

10. At paragraph 4 of the Iowa Federal Lawsuit Complaint, it is alleged that the matter in controversy exceeds the sum of \$75,000.00, exclusive of costs and interest.

11. At paragraph 4 of the Answer filed in the Iowa Federal Lawsuit, plaintiffs in this case admit the matter in controversy in the Iowa Federal Lawsuit exceeds the sum of \$75,000.00, exclusive of costs and interest.

12. The amount in-controversy requirement for diversity jurisdiction is satisfied in this case because it is clear from the face of the Complaint and Answer filed in the Iowa Federal Lawsuit that the “matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.” 28 U.S.C. § 1332(a).

**C. THE OTHER PREREQUISITES FOR REMOVAL HAVE BEEN SATISFIED.**

13. In addition to satisfying the requirements for diversity jurisdiction, Westport has satisfied all other requirements for removal.

14. Westport was served with the Complaint in this action on February 7, 2013. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

15. The District Court of Lancaster County, Nebraska is located within the District of Nebraska. See 28 U.S.C. § 1441(a).

16. Defendant is not a citizen of the State of Nebraska, where this action was brought. See 28 U.S.C. § 1441(b).

17. No previous application has been made for the relief requested herein.

18. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon Westport are attached collectively as Exhibit A.

19. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice is being served upon counsel for plaintiffs and a copy is being filed with the Clerk of the District Court of Lancaster County, Nebraska.

WHEREFORE, Westport respectfully removes this action from the District Court of Lancaster County, Nebraska, bearing Case No. 13-436, to this Court.

WESTPORT INSURANCE CORP., Defendant.

By: s/Michael K. Huffer  
Michael K. Huffer - 18087  
Of: Cassem, Tierney, Adams  
Gotch & Douglas  
9290 West Dodge Road, Suite 302  
Omaha, Nebraska 68114-3320  
(402)390-0300

**CERTIFICATE OF SERVICE**

I hereby certify that on March 6, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- David A. Dudley [ddudley@baylorevnen.com](mailto:ddudley@baylorevnen.com)
- Colin A. Mues [cmues@baylorevnen.com](mailto:cmues@baylorevnen.com)

s/Michael K. Huffer